

August 24, 2000

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT**

SUBJECT: Department of Development and Environmental Services File No. **L99P3009**

**CHELMSFORD**

Preliminary Plat Application

Location: Southeast corner of the intersection of 116<sup>th</sup> Avenue Southeast and  
Southeast 234<sup>th</sup> Street

Applicant: Barghausen Consulting Engineers, Inc., *represented by*  
**Eric LaBrie**  
18215 – 72<sup>nd</sup> Avenue South  
Kent, WA 98032  
Telephone: (425) 251-6222 Facsimile: (425) 251-8782

King County: Department of Development and Environmental Services,  
Land Use Services Division, *represented by*  
**Lance Moreno**  
900 Oakesdale Avenue Southwest  
Renton, WA 98055-1219  
Telephone: (206) 296-7182 Facsimile: (206) 296-7051

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

**PRELIMINARY MATTERS:**

Application or petition submitted:	September 3, 1999
Complete application:	September 30, 1999

EXAMINER PROCEEDINGS:

Hearing Opened: August 15, 2000  
Hearing Closed: August 15, 2000

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Wetlands
- Wetland buffers
- Drainage
- Sewer availability
- Fencing
- Significant trees
- Safe walking conditions
- Traffic
- Wildlife

SUMMARY:

Grants preliminary approval to a subdivision of 7.49 acres, classified R-6, into 32 single-family residential building lots.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Developer:	Virtual Properties 8705 Canyon Road East Puyallup, WA 98371-6313 (253) 539-076 ( <i>sic</i> )
Engineer:	Barghausen Consulting Engineers, Inc. 18215 – 72 <sup>nd</sup> Avenue South Kent, WA 98032 (425) 251-6222 Contact: Eric LaBrie

STR:	16-22N-5E
Location:	Southeast corner of the intersection of 116 <sup>th</sup> Avenue SE and SE 234 <sup>th</sup> Street
Zoning:	R-6 (6 dwelling units per acre)
Acreage:	7.49
Number of Lots:	32
Density:	4.3 dwelling units per acre
Lot Size:	Ranging from 4,500 to 10,000 square feet in area
Proposed Use:	Single-family residential
Sewage Disposal:	City of Kent
Water Supply:	City of Kent
Fire District:	Number 37
School District:	Kent School District
Complete Application Date:	September 30, 1999

2. **Proposal.** Virtual Properties (the “Applicant”) represented by Barghausen Consulting Engineers, proposes to subdivide a 7.49 acre parcel, classified R-6 (6 dwelling units per acre) into 32 single-family residential building lots near the intersection of 116<sup>th</sup> Avenue Southeast and Southeast 234<sup>th</sup> Street. With a proposed density of 4.3 dwelling units per acre, the proposed development will comply with the minimum and maximum densities of the R-6 classification. Proposed lot sizes range from approximately 4,500 to 10,000 square feet. The proposal is accurately illustrated by the preliminary plat drawing entered in this hearing record as Exhibit No. 7, which is also appended to the Department of Development and Environmental Services (“DDES” or the “Department”) Preliminary Report to the Examiner entered as Exhibit No. 2.
3. **State Environmental Policy Act.** On July 14, 2000, the Department issued its threshold determination of non-significance for the proposed development. That is, the Department published its determination that an Environmental Impact Statement would not be required because the proposal would not cause a probable significant adverse impact upon the environment. This determination was based upon the Department’s review of the environmental checklist and numerous other relevant environmental documents. The determination was not appealed by any agency, tribe, person or other entity. The Department’s environmental review record is incorporated in this environmental review record as well.
4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of Chelmsford, subject to the 22 conditions of final plat approval stated on pages 6 through 10 of the Department’s preliminary report (Exhibit No. 2); *subject* to these changes:
  - a. **Road A functional classification.** Access to the 32 proposed Chelmsford lots would be obtained by constructing a generally north/south internal circulatory spine street designated “Road A” in the preliminary plat drawing. In its preliminary report (Exhibit No. 2) the Department recommended that Road A be required to be improved to the urban “subcollector” street standard. In its final recommendation the Department reduces that recommended standard to “urban subaccess.” See Condition No. 10.b.

- b. **Drainage standards.** In Recommendation No. 7.a of the Department's preliminary report, the Department recommends (in error) compliance with the 1990 King County Surface Water Design Manual. In its final recommendation Recommended Condition No. 7.a is corrected to require compliance with the *1998 King County Surface Water Design Manual and applicable updates*.
- c. **Road standards.** Recommended Condition No. 10 twice requires compliance with the 1993 King County Road Standards (KCRS). In its final recommendation, the Department deletes the unnecessarily duplicative second reference to the KCRS.
- d. **Temporary turnaround location.** As stated in the Department's preliminary report, Recommended Condition No. 17 would require a temporary cul-de-sac bulb to be located at the terminus of Road A. Responding to a request from the Applicant, the Department agrees to amend Recommended Condition No. 17 to require that the cul-de-sac turnaround bulb shall be located *within 150 feet of the terminus of Road A*.
- e. **Private driveway access tracts.** In its final recommendation, the Department deletes Recommended Condition No. 18 as stated in Exhibit No. 2, having found that condition to unnecessarily duplicate conditions contained in Recommended Condition No. 10.
- f. **Homeowners association.** Recommended Condition No. 20.d (as stated in Exhibit No. 2) would require a homeowners association or other workable organization to be established to provide for ownership and maintenance of recreation and open space areas. In its final recommendation, the Department recommends adding an additional responsibility for the homeowners association—sensitive areas ownership and maintenance.
- g. **Safe walking conditions.** In addition to the 22 conditions stated in the Department's preliminary report, the Department recommends an additional (Condition No. 23) requirement:

At engineering plan approval, King County Traffic Engineering shall determine the appropriateness of, and appropriate location for, a cross walk across SE 234<sup>th</sup> Street, to be provided by the Applicant.

In addition to the changes in final recommendation described above, the Department also notes that on page 5 of its preliminary report (Exhibit No. 2) section J, paragraph 1.b, the report erroneously indicates that children from the subdivision will attend the Park Orchard Elementary School. Since publication of that report, the Department has determined that those children will attend Martin Sortun Elementary School and will be bussed from the corner at 116<sup>th</sup> Avenue SE and SE 234<sup>th</sup> Street.

- 5. **Applicant's Response.** The Applicant accepts the Department's recommendation as described in Finding No. 4, preceding.
- 6. **Public Concerns.** Several neighboring property owners express a variety of concerns regarding the proposed plat of Chelmsford.

- a. **Stormwater conveyance.** Several neighboring property owners express concern regarding perceived potential drainage impacts. Those property owners have experienced increased flooding and increased duration of flooding since construction of road improvements in the SE 240<sup>th</sup> Street corridor located south of the subject property and their respective properties. Topographic survey, combined with the Applicant's conceptual drainage plans, show that none of the drainage from impervious surfaces (such as roof tops, driveways and proposed Road A) will drain southward to the properties of concern. Rather, the drainage will be collected from impervious surfaces, routed northward to proposed drainage tracts D and C (to be located at the north boundary of the subject property, abutting SE 234<sup>th</sup> Street). Discharge from those drainage facilities will flow northward through both man-made and natural channels. Thus, no new drainage will be channeled toward Wetland B (the wetland of concern), even during peak storm periods.
- b. **Sewer availability.** Some neighboring property owners express interest in determining the location of sewer extensions to the south and/or east of the subject property. The Applicant fully expects the Kent Sewer District to require an extension to the east boundary (which may be achieved by providing an easement). Both the Department and the Applicant indicate that the final plat will be required to comply with the Kent Sewer District Comprehensive Plan. A neighboring property testifies that the Kent Sewer District Comprehensive Plan requires service to the properties located east and south of the subject property.
- c. **Traffic/safe walking conditions.** Property owners who obtain public street access from SE 234<sup>th</sup> Street testify that traffic related to Meridian Junior High School interferes with safe walking conditions as well as accessibility to SE 234<sup>th</sup> Street. Although there is a shoulder along the south side of SE 234<sup>th</sup> Street, the school district prohibits its use. Consequently Aileen McManus, representing the King County Roads Division, recommends the cross walk described in Finding No. 4.g, above.
- d. **Wildlife habitat.** A neighboring property owner expresses concern regarding probable loss of wildlife habitat. Although barn owls and pheasant may be affected, no species listed as threatened, endangered or otherwise protected has been identified. The Department indicates that the County GMA-based (based upon the Growth Management Act) Comprehensive Plan acknowledges the loss of wildlife habitat within designated urban areas while preserving and/or enhancing habitat in rural and other areas. The record also shows that approximately 64,800 square feet of the proposed development will be set aside as protected wetland/buffer preservation tract (Exhibit No. 7). The record also indicates through the testimony of Mr. Deming that the habitat bio-diversity is greatest within wetlands and wetland buffers.
- e. **Other.** A property owner whose property abuts the east boundary of the subject property expresses concern or seeks clarification regarding fencing, near-boundary tree root protection and significant tree preservation. The Applicant does not propose fencing and no code requires fencing under these circumstances. The Applicant expects to conduct only minor grading of the proposed east boundary lots and therefore does not expect to affect the important root systems of trees located on neighboring properties.

When “significant trees” are inventoried according to the County standard, only trees having certain specified diameters are counted. Thus, even holly, weeping willow or flowering plum trees (which may have horticultural value) are not included in the inventory. Absence from the inventory does not necessarily mean they will be unprotected if the developer finds that their retention will enhance marketability.

Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated August 15, 2000 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

#### CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

#### DECISION:

The proposed plat of Chelmsford is GRANTED PRELIMINARY APPROVAL; SUBJECT to the 23 conditions of final plat approval stated on pages 6 through 10 of the Department's Preliminary Report (Exhibit No. 2); EXCEPT as amended by the following:

##### A. CONDITION 7.a:

Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.

## B. CONDITION 10:

The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards (KCRS):

- a. FRONTAGE: The frontage along SE 234<sup>th</sup> Street (south side only) shall be improved to the urban neighborhood collector street standard. The frontage along 116<sup>th</sup> Avenue SE (east side only) shall be improved to the urban minor arterial standard, with a provision for a bike lane.
- b. Road A shall be improved to the urban subaccess street standards.
- c. Tracts F and G shall be improved as joint use driveways according to Section 3.01 of the 1993 KCRS.
- d. Tracts H and I shall be improved as private access tracts according to Section 2.09 of the 1993 KCRS.
- e. Modifications to the above road conditions may be considered pursuant to the variance procedures in Section 1.08 of the 1993 KCRS.

## C. CONDITION 17:

A temporary cul-de-sac turnaround bulb shall be provided within 150 feet of the terminus of Road A.

## D. CONDITION 18:

DELETE

## E. CONDITION 20.d:

A homeowners association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, sensitive areas or open space areas.

## F. NEW CONDITION 23:

At engineering plan approval, King County Traffic Engineering shall determine the appropriateness of, and appropriate location for, a cross walk across SE 234<sup>th</sup> Street, to be provided by the Applicant.

ORDERED this 24<sup>th</sup> day of August, 2000.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 24<sup>th</sup> day of August, 2000, to the following parties and interested persons:

Wendall & Jeanne Alexander  
 Delmer Boysen  
 Thomas Deming  
 Roger Dorstad  
 Ricky Gerontis  
 Frederick & Marlen Haechler  
 Eric LaBrie  
 Teresa LeMay  
 Alexander March  
 Brad and Gina Martin  
 Linda Matlock  
 Ron Snyder  
 Randall Smith  
 Greg Nick  
 Mike & Jane Quinn

Lena Teter  
 T. H. Woo  
 Greg Borba  
 Kim Claussen  
 Nick Gillen  
 Kristen Langley  
 Aileen McManus  
 Lance Moreno  
 Carol Rogers  
 Larry West  
 Bruce Whittaker  
 Eleanor Moon  
 New Home Trends  
 Ken Rody

#### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before September 7, 2000*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before September 14, 2000*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

#### MINUTES OF THE AUGUST 15, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L99P3009 – CHELMSFORD:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing DDES were Lance Moreno and Bruce Whittaker. Participating in the hearing and representing KCDOT was Aileen McManus. Participating in the hearing and representing the Applicant were Eric LaBrie of Barghausen Consulting Engineers and Ken Rody of Subdivision West, Inc. P. S. Other participants in this hearing were Thomas Deming of Habitat Technologies and Interested Persons Wendell Alexander, Lena Teter, Alexander March and Brad Martin.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES File No. L99P3009
Exhibit No. 2	DDES Preliminary Report to the Hearing Examiner, dated August 15, 2000
Exhibit No. 3	Application, dated September 30, 1999
Exhibit No. 4	Environmental Checklist, dated September 3, 1998
Exhibit No. 5	Declaration of Non-significance, dated July 14, 2000
Exhibit No. 6	Revised Plat Map, dated March 24, 2000



Exhibit No. 7	Land Use Map 642W
Exhibit No. 8	Assessors Maps 16-22N-5E
Exhibit No. 9	Level One Drainage Analysis, dated August 23, 1999
Exhibit No. 10	Trip Generation and Distribution letter, received September 3, 1999
Exhibit No. 11	Wetland Evaluation and Delineation Report, received September 3, 1999
Exhibit No. 12	Trip Generation and Distribution Letter, received June 23, 1999
Exhibit No. 13	Preliminary Recreation Space Plan, dated November 22, 1999
Exhibit No. 14	Traffic Analysis Addendum, received March 24, 2000
Exhibit No. 15	Recreational Facilities Map and color copies of related photographs, dated August 26, 1999
Exhibit No. 16	Assessor's Map SE 17-22-5 & NW 16-22-5, as annotated by Applicant

RST:sje  
Plats/L99P3009 RPT